

Senator Deidre M. Henderson proposes the following substitute bill:

PENALTIES FOR MISCONDUCT WITH STUDENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Candice B. Pierucci

Senate Sponsor: Deidre M. Henderson

6	Cosponsors:	Eric K. Hutchings	Lee B. Perry
7	Cheryl K. Acton	Dan N. Johnson	Susan Pulsipher
8	Brady Brammer	Marsha Judkins	Angela Romero
9	Kim F. Coleman	Karianne Lisonbee	
	Sandra Hollins		

LONG TITLE

General Description:

This bill amends penalties for an educator who engages in misconduct with students.

Highlighted Provisions:

This bill:

- ▶ imposes penalties for an educator or license applicant who engages in sexually explicit conduct with a student who:
 - is not a minor;
 - is not enrolled in an adult education program; and
 - is enrolled at a school where a license applicant or educator is employed or is a participant in an extracurricular activity in which the educator is involved.

Money Appropriated in this Bill:

None



24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **53E-6-603**, as last amended by Laws of Utah 2019, Chapter 186

29 **53E-6-604**, as last amended by Laws of Utah 2019, Chapter 186



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **53E-6-603** is amended to read:

33 **53E-6-603. Ineligibility for educator license.**

34 (1) The state board may refuse to issue a license to a license applicant if the state board
35 finds good cause for the refusal, including behavior of the applicant:

36 (a) found pursuant to a criminal, civil, or administrative matter after reasonable
37 opportunity for the applicant to contest the allegation; and

38 (b) considered, as behavior of an educator, to be:

39 (i) immoral, unprofessional, or incompetent behavior; or

40 (ii) a violation of standards of ethical conduct, performance, or professional
41 competence.

42 (2) The state board may not issue, renew, or reinstate an educator license if the license
43 applicant or educator:

44 (a) was convicted of a felony of a sexual nature;

45 (b) pled guilty to a felony of a sexual nature;

46 (c) entered a plea of no contest to a felony of a sexual nature;

47 (d) entered a plea in abeyance to a felony of a sexual nature;

48 (e) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual
49 Offenses, against a minor child;

50 (f) engaged in sexually explicit conduct, as defined in Section **76-5b-103**, with a
51 student who is a minor;

52 (g) engaged in sexually explicit conduct, as defined in Section **76-5b-103**, with a
53 student who ~~is~~:

54 (i) is not enrolled in an adult education program in an LEA;

55 [(i)] (ii) is not a minor; and
56 [(ii)] (iii) (A) is enrolled in [a school] an LEA where the license applicant or educator
57 is [~~or was~~] employed; or

58 (B) is a participant in an extracurricular program in which the educator is involved; or

59 (h) admits to the state board or UPPAC that the license applicant or educator
60 committed conduct that amounts to:

61 (i) a felony of a sexual nature; or

62 (ii) a sexual offense or sexually explicit conduct described in Subsection (2)(e), (f), or

63 (g).

64 (3) If an individual is ineligible for licensure under Subsection (1) or (2), a public
65 school may not:

66 (a) employ the person in the public school; or

67 (b) allow the person to volunteer in the public school.

68 (4) (a) If the state board denies licensure under this section, the state board shall
69 immediately notify the applicant of:

70 (i) the denial; and

71 (ii) the applicant's right to request a hearing before UPPAC.

72 (b) Upon receipt of a notice described in Subsection (4)(a), an applicant may, within 30
73 days after the day on which the applicant received the notice, request a hearing before UPPAC
74 for the applicant to review and respond to all evidence upon which the state board based the
75 denial.

76 (c) If the state board receives a request for a hearing described in Subsection (4)(b), the
77 state board shall direct UPPAC to hold a hearing.

78 Section 2. Section **53E-6-604** is amended to read:

79 **53E-6-604. State board disciplinary action against an educator.**

80 (1) (a) The state board shall direct UPPAC to investigate an allegation, administrative
81 decision, or judicial decision that evidences an educator is unfit for duty because the educator
82 exhibited behavior that:

83 (i) is immoral, unprofessional, or incompetent; or

84 (ii) violates standards of ethical conduct, performance, or professional competence.

85 (b) If the state board determines an allegation or decision described in Subsection

86 (1)(a) does not evidence an educator's unfitness for duty, the state board may dismiss the
87 allegation or decision without an investigation or hearing.

88 (2) The state board shall direct UPPAC to investigate and allow an educator to respond
89 in a UPPAC hearing if the state board receives an allegation that the educator:

90 (a) was charged with a felony of a sexual nature;

91 (b) was convicted of a felony of a sexual nature;

92 (c) pled guilty to a felony of a sexual nature;

93 (d) entered a plea of no contest to a felony of a sexual nature;

94 (e) entered a plea in abeyance to a felony of a sexual nature;

95 (f) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual
96 Offenses, against a minor child;

97 (g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a
98 student who is a minor; or

99 (h) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a
100 student who ~~is~~:

101 (i) is not enrolled in an adult education program in an LEA;

102 ~~(i)~~ (ii) is not a minor; and

103 ~~(i)~~ (iii) (A) is enrolled in ~~a school~~ an LEA where the educator is ~~or was~~

104 employed[-]; or

105 (B) is a participant in an extracurricular program in which the educator is involved.

106 (3) Upon notice that an educator allegedly violated Section 53E-6-701, the state board
107 shall direct UPPAC to:

108 (a) investigate the alleged violation; and

109 (b) hold a hearing to allow the educator to respond to the allegation.

110 (4) Upon completion of an investigation or hearing described in this section, UPPAC
111 shall:

112 (a) provide findings to the state board; and

113 (b) make a recommendation for state board action.

114 (5) (a) Except as provided in Subsection (5)(b), upon review of UPPAC's findings and
115 recommendation, the state board may:

116 (i) revoke the educator's license;

- 117 (ii) suspend the educator's license;
- 118 (iii) restrict or prohibit the educator from renewing the educator's license;
- 119 (iv) warn or reprimand the educator;
- 120 (v) enter into a written agreement with the educator that requires the educator to
- 121 comply with certain conditions;
- 122 (vi) direct UPPAC to further investigate or gather information; or
- 123 (vii) take other action the state board finds to be appropriate for and consistent with the
- 124 educator's behavior.
- 125 (b) Upon review of UPPAC's findings and recommendation, the state board shall
- 126 revoke the license of an educator who:
- 127 (i) was convicted of a felony of a sexual nature;
- 128 (ii) pled guilty to a felony of a sexual nature;
- 129 (iii) entered a plea of no contest to a felony of a sexual nature;
- 130 (iv) entered a plea in abeyance to a felony of a sexual nature;
- 131 (v) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual
- 132 Offenses, against a minor child;
- 133 (vi) engaged in sexually explicit conduct, as defined in Section [76-5b-103](#), with a
- 134 student who is a minor;
- 135 (vii) engaged in sexually explicit conduct, as defined in Section [76-5b-103](#), with a
- 136 student who:
- 137 (A) is not enrolled in an adult education program in an LEA;
- 138 (B) is not a minor; and[:]
- 139 [~~(A) not a minor; and~~]
- 140 [~~(B) enrolled in a school where the educator is or was employed; or~~]
- 141 (C) is enrolled in an LEA where the educator is employed or is a participant in an
- 142 extracurricular program in which the educator is involved; or
- 143 (viii) admits to the state board or UPPAC that the applicant committed conduct that
- 144 amounts to:
- 145 (A) a felony of a sexual nature; or
- 146 (B) a sexual offense or sexually explicit conduct described in Subsection (5)(b)(v), (vi),
- 147 or (vii).

148 (c) The state board may not reinstate a revoked license.

149 (d) Before the state board takes adverse action against an educator under this section,
150 the state board shall ensure that the educator had an opportunity for a UPPAC hearing.